should be $630,000. The Trustee also requests that the Commission set terms for the use of Rock Island tracks and related facilities.

RTA has replied to the Trustee's petition. It takes the position that, as a public entity, it should not be required to pay any rent for use of the involved properties because the commuter operations yield no net profit.

Discussion and Conclusions

We have established a formula for calculating reasonable compensation to be paid for use of Rock Island tracks and related facilities operated pursuant to a service order issued under 49 U.S.C. § 11123. Finance Docket No. 29305, *St. Louis-San Francisco Railway Company—Compensation for Use of Terminal Tracks—Chicago, Rock Island & Pacific Railroad Company, Debtor* (William M. Gibbons, Trustee), —— I.C.C. —— (decided April 7, 1980), 45 FR 25401 (April 15, 1980) (*Frisco Compensation* case). We have determined that this formula is appropriate for setting compensation to be paid for use of a line operated pursuant to an unsubsidized directed service order issued under 49 U.S.C. § 11125, which is not subject to a sale agreement setting a purchase price. DSO No. 1453, *St. Louis Southwestern Railway Company—Directed Service—Chicago, Rock Island & Pacific Railroad Company, Debtor (Willima M. Gibbons, Trustee) Between Santa Rosa, NM, and St. Louis, MO,* Supplemental Order No. 2, embracing DSO No. 1456, *St. Louis Southwestern Railway Company—Directed Service—Chicago, Rock Island & Pacific Railroad Company, Debtor (William M. Gibbons, Trustee) Between Memphis, TN, and Fordyce, AR,* Supplemental Order No. 2, (served April 28, 1980) (*SSW Compensation* case).

The concepts of DSO No. 1437 are essentially the same as those of the involved orders in the *SSW Compensation* case, except that they apply to a commuter line, not a freight line. As we noted in the *SSW Compensation* case, the *Frisco Compensation* case formula is designed to make a reasonable accommodation of the opposing interests of the Trustee and the interim operators with respect to lines not subject to a purchase agreement setting an agreed price.

RTA argues that, as a public entity providing subsidized commuter service, it should not be required to pay compensation for use of the line. We do not find this argument to be persuasive. The type of service provided over Rock Island lines during interim operations should not control whether the Trustee should receive compensation. Profitability of interim operations is a factor to be considered in determining what level of compensation is reasonable. It is not the only factor to be considered, however, in setting compensation for use of lines pursuant to a permissive, unsubsidized directed service order.

Unlike DSO No. 1398, in which we directed the KCT to provide service, we have not compelled RTA to provide interim operations. Rather, it is RTA that wants access to a portion of the Rock Island to provide those operations, and in these circumstances we believe it is not appropriate to allow RTA (or any similarly situated interim operator) that benefit without providing some compensation to the Trustee. Moreover, since it is not up to the Trustee to determine what kind of operations are performed, we believe the Trustee should be paid a base rental for the use of Rock Island property by interim operators. Application of the *Frisco* concept, adjusted to apply costs and revenues of commuter service operations, will assure the Trustee of receiving some compensation for use of Rock Island properties even if temporary operations produce no net revenues. Accordingly, RTA should pay the Trustee, for the use of the Chicago-Joliet, IL, commuter line and related facilities, on a monthly basis, in advance, the sum of $1,250 per route mile per year. The method of computing net revenues set forth in the second part of the *Frisco Compensation* case formula is not applicable to passenger operations. Therefore, net revenues, if any, from interim operations over the Chicago-Joliet line should be calculated in accordance with the commuter standards at 49 CFR 1127.6 and 1127.7.

The Trustee requests that the Commission fix terms, in addition to compensation, for use of the involved line. We believe that these terms should be negotiated between the parties, giving consideration to the terms and conditions of DSO No. 1437, as revised, and the compensation specified in this decision.

We find: 1. RTA and the RI Trustee have been unable to agree upon terms for compensation for the RI estate for use of RI property by RTA under DSO No. 1437, as revised.

2. The terms of compensation set forth in this decision will be reasonable and will accommodate the interests of RTA and the RI Trustee.

3. This action will not significantly affect either the quality of the human environment or the conservation of energy resources. See 49 CFR Parts 1106 and 1108 (1978).

It is ordered: 1. RTA shall compensate the Rock Island estate for the use of RI tracks and related facilities, operated under DSO No. 1437, in accordance with the terms of this decision.

2. This decision shall be effective on the date it is served. [May 19, 1980].

By the Commission Chairman Gaskins, Vice Chairman Gresham, Commissioners Stafford, Clapp, Trantum, Alexis, and Gilliam. (Commissioner Gilliam not participating).

(49 U.S.C. 11125)

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-15571 Filed 5-20-80; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 611

Foreign Fishing Regulations—Subpart E; Northeast Pacific Ocean

AGENCY: National Oceanic and Atmospheric Administration (NOAA)/ Commerce.

ACTION: Final regulations.

SUMMARY: These regulations amend 50 CFR Part 611 (foreign fishing regulations) and provide the conditions and restrictions for an orderly fishery by foreign fishermen in the fishery conservation zone (FCZ) off the coasts of Washington, Oregon, and California.

EFFECTIVE DATE: These regulations are effective on May 17, 1980.

FOR FURTHER INFORMATION CONTACT: Dr. Thomas E. Kruse, Acting Director, Northwest Region, National Marine Fisheries Service, 1700 Westlake Avenue North, Seattle, Washington 98109, Telephone: (206) 442-7575.

SUPPLEMENTARY INFORMATION: The Assistant Administrator for Fisheries (Assistant Administrator) approved the amendment to the preliminary management plan (PMP) for the foreign trawl fishery in the FCZ off the coasts of Washington, Oregon, and California on March 19, 1980. Proposed regulations governing this fishery were published on April 16, 1980 (45 FR 25844). A public hearing was held on May 1, 1980 in Seattle, and comments were accepted until May 9, 1980.

The amended PMP, as approved, provides the basis for these regulations and is available for public inspection at the Northwest Regional Office of the National Marine Fisheries Service (NMFS) (address above). These regulations constitute Subpart E of the

1980 foreign fishing regulations, and govern all foreign fishing during 1980 in the FCZ seaward of Washington, Oregon, and California. While they are similar to those regulations which were in effect during 1979, there are some significant differences. Those differences are summarized here:

(1) The name "Pacific whiting" has been substituted for the name "Pacific hake";

(2) Based upon recent stock assessment, the optimum yield (OY) and total allowable catch (TAC) of Pacific whiting is decreased from 198,900 metric tons (mt) to 175,000 mt;

(3) Based upon an evaluation of expected domestic harvesting and processing capabilities and intentions, the estimated domestic annual harvest (DAH) is reduced from 50,000 mt to 40,000 mt (12,000 mt U.S. caught/U.S. processed and 28,000 mt U.S. caught/foreign processed), and the total allowable level of foreign fishing (TALFF) for Pacific whiting is 135,000 mt, of which 35,000 mt is held in reserve and may be apportioned to TALFF after July 1;

(4) The incidental catch allowance for sablefish is increased from 0.1 to 0.173 percent of the Pacific whiting catch. This increase has been determined to be necessary in order to allow foreign fishermen to harvest the Pacific whiting TALFF. Based upon recent evaluation of sablefish stocks, this incidental catch allowance amounts to a maximum of 1.7 percent of the sablefish OY, and should not have any adverse impact on either the resource or the domestic sablefish harvest;

(5) There are two possible ways of increasing TALFF in a given year. The first deals with release of all or part of the reserve that is not needed by domestic industry. The second allows TALFF to be supplemented by the amount of DAH in excess of domestic needs. Both procedures were used in 1979, and reassignments to TALFF were made at the same time (August 1). However, the criteria for assessing release of reserves and the date for implementing reserve release have been changed. As a result, these two procedures are treated separately in 1980, as follows:

The determination whether or not to release any part of the reserves to TALFF will be made after July 1 rather than August 1, and the criteria for that determination are modified to include a larvae survey as well as an in-season survey of processors' intentions and domestic catch and effort. These regulations make pertinent data available to the public and allow for public comment from June 15–30 on the proposal of whether or not to release reserves.

A procedure to re-evaluate DAH during the season and add to TALFF on August 1 any portion of the DAH that will not be harvested by domestic fishermen is included. These regulations make pertinent data available to the public and allow for public comment on any such proposal from July 15–31. This provision allows for full utilization of the Pacific whiting resource should the domestic whiting harvest during 1980 not be as large as expected.

(6) The OY's for the incidental species have been adjusted, based upon recent evaluations. The catch of incidental species will be reported to the nearest 0.01 mt per haul, rather than to the nearest 0.1 mt. This requirement is intended to provide a more accurate measure of the incidental catch. Also, a new daily log book system will be implemented.

Two parties commented on the amendment and proposed regulations. The first statement, from the Polish representative, included three recommendations which were incorporated into the final regulations. These suggestions are discussed below:

(1) 50 CFR 611.70(f)(1)(ii) on gear restrictions would be clarified by stating that this restriction on mesh-size modification applies only to the cod end of the net. This comment is consistent with the intent of the original statement.

(2) 50 CFR 611.70(g)(1) requires that on-deck estimates for a haul shall be "logged prior to the next fishing operation." Since the next operation may begin shortly after the previous haul has been dumped on deck, there could be insufficient time to carefully assess the catch. By changing the phrase to "before the next haul is on deck" this becomes a more realistic stipulation, is consistent with our request for careful estimation (to 0.01 mt for incidentally caught species), and still requires that the data be entered after each haul.

(3) 50 CFR 611.70(g)(iii) states that the daily logbook shall be submitted to the Regional Director within one week after termination of the fishery. Due to logistical problems, the request to extend this period to three weeks has been granted.

The second statement recommended that since OY is defined as MSY adjusted by economic, ecological, and social considerations, and since the domestic groundfish industry is economically depressed, OY should equal DAH. By doing so, foreign fishing (TALFF) would be eliminated and U.S. industry would expand (DAH would increase).

The FCMA provides that the amount to be allocated to the foreign fishery is that portion of the OY which will not be taken by the domestic industry. As the DAH is estimated by an annual survey of domestic industry's capacity and intention, and is buffered by a reserve of 20 percent OY, then domestic industry already receives highest priority with respect to fish to be taken in the FCZ. Any further increase in DAH would inhibit maximum use of the resource contrary to the FCMA.

There is no viable economic reason for lowering OY to equal DAH in 1980. The Washington, Oregon, California (WOC) domestic groundfish market is glutted and seriously depressed. There is no indication that the WOC domestic groundfish market situation could be relieved by an increased supply of whiting, for which there has been small demand. Similarly, a reduced TALFF does not assure a receiptive world export market. There is no indication that a domestic whiting fishery could successfully compete on a wide scale in the world market in 1980. Should the domestic industry indicate an increased demand for the whiting resource within the bounds of OY, all or part of the 35,000 m.t. reserve will be made available to the domestic harvest. The reserve is considered adequate to allow for any foreseeable increase in domestic harvest in 1980. No relevant economic, ecological or social justification was identified for equating OY and DAH.

A second recommendation urged 100 percent observer coverage of foreign fishing operations. This is not possible in 1980 because of Federal funding and hiring restrictions now in effect.

A. The Environmental Impact Statement/Preliminary Fishery Management Plan for the Trawl Fishery of the Washington, Oregon, and California region (January 1977) as amended for the 1978 and 1979 fisheries is amended as follows for the 1980 fishery:

Two appendices are added.

Appendix B.—Initial Determination of Nonsignificance for the Proposed 1980 Amendment for the Foreign Trawl Fishery off Washington, Oregon, and California.

Appendix C.—Environmental Assessment of an Amendment (Amendment 3) to the Preliminary Fishery Management Plan for the Trawl Fisheries off Washington, Oregon, and California. These documents are available for public inspection at the Northwest Regional Office (address above).

The Assistant Administrator for Fisheries has determined that these regulations are not significant under

Executive Order 12044, and that no significant environmental impacts will result from this action. A copy of the environmental assessment with the statement of non-significance is available for review at the National Marine Fisheries Service, Washington, D.C., or at the Northwest Regional Office (address above).

The Assistant Administrator also finds that the 30-day implementation delay required by sec. 553(c) of the Administrative Procedure Act is unnecessary and contrary to the public interest because these regulations relieve a no fishing restriction by permitting foreign fishing in the fishery conservation zone (FCZ) and also by permitting foreign processing vessels to receive fish harvested by U.S. fishermen. Without these regulations such activities would not be lawful under provisions of the FCMA.

Signed at Washington, D.C. this 16th day of May, 1980.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

(16 U.S.C. 1801 *et seq.*)

Part 611 Foreign Fishing Regulations are amended as follows:

§ 611.20 [Amended]

1. Appendix 1 to 50 CFR 611.20 is revised to read as follows:

Species	Species code	Area	Optimum yield (OY) in metric tons	Domestic harvest (DAH) in metric tons	Joint venture (JVP) [1] in metric tons	Reserve	TALFF
*	*	*	*	*	*	*	*
5. North Pacific Ocean Fisheries: Washington, Oregon, and California Trawl Fisheries:							
Whiting, Pacific	704		175,000	40,000	28,000	35,000	[10]100,000
Flounders	129		38,400			35	[10]100
Mackerel, jack	208		55,000			1,050	[10]3,000
Rockfishes, excluding Pacific Ocean perch	849		43,300			258	[10]738
Pacific Ocean perch	780		1,000			22	[10]62
Sablefish	703		13,400			61	[10]173
Other species	499		26,100			175	[10]500

[1] JVP is a subset of DAH.

[10] Allowable incidental catch of these species is determined as a percentage of the Pacific whiting TALFF (see § 611.70(b)(1)(ii)(A)).

(2) 50 CFR 611.70 is revised to read as follows:

Subpart E—Northeast Pacific Ocean

§ 611.70 Washington, Oregon, and California trawl fishery.

(a) *Purpose.* This subpart regulates all foreign fishing conducted under a Governing International Fishery Agreement in the fishery conservation zone seaward of Washington, Oregon, and California.

(b) *Authorized fishery.*—(1) *TALFFs, reserves, and reassessment of DAH.* (i) *TALFFs.* The total allowable levels of foreign fishing (TALFFs), the amounts of fish set aside as reserves, and the initial estimated domestic annual harvest (DAH) are set forth in Appexdix 1 of 50 CFR § 611.20.

(ii) *Reserves.* (A) *Apportionment of reserves.* As soon as practicable after July 1, the Northwest Regional Director of the National Marine Fisheries Service (Regional Director) shall apportion all or part of the reserves to TALFF. The Regional Director may withhold all or part of the Pacific whiting reserve based on the criteria in paragraph (b)(1)(ii)(B) of this section. Apportionment of the reserves for other species shall be based on the following maximum incidental catch rates expressed as a percentage of the Pacific whiting TALFF:

Species:	*Percentage*
Flounders	0.1
Jack Mackerel	3.0
Rockfishes, Excluding Pacific Ocean Perch	0.738
Pacific Ocean Perch	0.062
Sablefish	0.173
Other Species	0.5

(B) *Criteria.* The Regional Director may withhold all or part of the Pacific whiting reserve if, as of June 15:

(*1*) All or part of the Pacific whiting reserve will be harvested by vessels of the United States during the rest of the fishing year, as determined by the following factors:

(*i*) Report of U.S. catch and effort compared to previously projected U.S. harvesting capacity;

(*ii*) Projected U.S. catch and effort for the rest of the fishing year; and

(*iii*) Projected processing for the rest of the fishing year; or

(*2*) The January-March 1980 Pacific whiting larvae assessment establishes that the total allowable catch of whiting is less than 175,000 m.t.

(C) *Public comment.* (*1*) On or about June 15 the Regional Director shall publish in the **Federal Register** the amount of reserves, if any, that he proposes to apportion to the TALFFs.

(*2*) Comments may be submitted to the Regional Director concerning all matters relevant to the determinations to be made by the Regional Director under paragraph (b)(1)(ii)(B) of this section. (Address: National Marine Fisheries Service, 1700 Westlake Avenue North, Seattle, Washington 98109.)

(*3*) Comments must be submitted by June 30, or 15 days after publication, whichever is later.

(*4*) The Regional Director shall consider any timely comment filed in accordance with this section in making the determinations specified in paragraph (b)(1)(ii)(B) of this section.

(*5*) The Regional Director shall compile, in aggregate form, the most recent available reports on:

(*i*) Current and projected domestic catch and effort;

(*ii*) Projected processing capabilities and intentions; and

(*iii*) Results of the Pacific whiting larvae assessment.

This data shall be available, as they are compiled, for public inspection during business hours at the National Marine Fisheries Service, Northwest Regional Office, 1700 Westlake Avenue North, Seattle, Washington 98109 during the period June 15–30.

(D) *Procedure.* As soon as practicable after July 1, the Regional Director shall publish in the **Federal Register:**

(*1*) The amounts of reserves to be apportioned to the TALFFs;

(*2*) The reasons for the determinations regarding apportionment to TALFF of the Pacific whiting reserve; and

(*3*) Responses to comments received.

(iii) *Reassessment of DAH.* (A) *Apportionment of excess DAH.* As soon as practicable after August 1, the

Regional Director shall add to TALFF that portion of the 40,000 m.t. projected DAH of Pacific whiting that he determines will not be harvested by U.S. fishermen during the rest of the fishing year, based on the factors in paragraph (b)(1)(iii)(B) of this section. Additions to incidental catch allowances for other species shall be based upon the incidental catch rates set forth in paragraph (b)(1)(ii)(A) of this section.

(B) *Criteria.* The Regional Director shall consider the following factors in making the determination in paragraph (b)(1)(iii)(A) of this section:

(*1*) The domestic catch and effort for Pacific whiting as of July 15;

(*2*) Projected U.S. catch and effort for the rest of the fishing year; and

(*3*) Projected processing for the rest of the fishing year.

(C) *Public comment.* (*1*) On or about July 15, the Regional Director shall publish in the **Federal Register** the amount of Pacific whiting DAH that he proposes to add to TALFF:

(*2*) Comments may be submitted to the Regional Director concerning all matters relevant to the determinations to be made by the Regional Director under paragraph (b)(1)(iii)(B) of this section (Address: National Marine Fisheries Service, 1700 Westlake Avenue North, Seattle, Washington 98109).

(*3*) Comments must be submitted by July 31.

(*4*) The Regional Director shall consider any timely comment filed in accordance with this section in making the determinations specified in paragraph (b)(1)(iii)(B) of this section.

(*5*) The Regional Director shall compile, in aggregate form, the most recent available reports on:

(*i*) Current and projected domestic catch and effort; and

(*ii*) Projected processing capabilities and intentions. This data shall be available, as they are compiled, for public inspection during business hours at the National Marine Fisheries Service, Northwest Regional Office, 1700 Westlake Avenue North, Seattle, Washington, during the period July 15–31.

(D) *Procedure.* As soon as practicable after August 1, the Regional Director shall publish in the **Federal Register:**

(*1*) The amount of Pacific whiting DAH to be added to the TALFF;

(*2*) The reasons for the determinations regarding apportionment to TALFF of Pacific Whiting DAH; and

(*3*) Responses to comments received.

(2) *Fishing permitted.* The catching and retention of any species for which a nation has an allocation is permitted, provided that:

(i) The vessels of that nation have not caught:

(A) The allocation of that nation for Pacific whiting; or

(B) The maximum allowable incidental catch of that nation for any species or species group (e.g., "other species"). When vessels of a foreign nation have caught a maximum allowable incidental catch, all further fishing (as defined in § 611.2(r)(1)) by vessels of that nation must cease, except as otherwise authorized by permit, even if the Pacific whiting allocation has not been reached. Therefore, it is essential that a foreign nation plan its fishing strategy to ensure that the reaching of an incidental catch limit does not close its Pacific whiting fishery;

(ii) A directed fishery is not conducted for species or species groups other than Pacific whiting; or

(iii) The fishery has not been closed for other reasons under § 611.15.

(c) *Open season.* Foreign fishing authorized under this subpart may begin at 0700 G.M.T. on June 1 and will terminate not later than 0800 G.M.T. on November 1, except as specified otherwise in a permit.

(d) *Open areas.* Except as prohibited in paragraph (c) of this section, foreign fishing under this Subpart is permitted beyond the twelve nautical miles from the baseline used to measure the U.S. territorial sea between 39°00′ N. latitude and 47°30′ N. latitude, and as otherwise specifically authorized by permit.

(e) *Closed areas.* Fishing by foreign vessels except as otherwise specifically authorized by permit is prohibited in the following areas:

(1) "Columbia River Recreational Fishery Sanctuary"—that area between 46°00′ N. latitude and 47°00′ N. latitude and east of a line connecting the following coordinates in the order listed: 46°00′ N. lat., 124°55′ W. long.; 46°20′ N. lat., 124°40′ W. long.; and 47°00′ N. lat., 125°20′ W. long.

(2) "Klamath River Pot Sanctuary"—that area between 41°20′ N. latitude and 41°37′ N. latitude and east of a line connecting the following coordinates in the order listed: 41°20′ N. lat., 124°32′ W. long.; and 41°37′ N. lat., 124°34′ W. long.

(f) *Gear restrictions.* (1) No foreign vessel may use any gear other than a pelagic trawl with a minimum mesh size of 100 mm, stretched inside measure when wet after use. No liners are permitted in the cod end of the trawl.

(2) Except as specifically authorized in writing by the Regional Director, no foreign fishing vessel may:

(i) Attach any device to pelagic fishing gear or use any other means that would, in effect, make it possible to fish on the bottom; or

(ii) Use any device or method which would have the effect of reducing mesh size in the cod end.

(g) *Statistical reporting.*—(1) *Daily fishing log.* The basis for all reports shall be a daily fishing log. This logbook shall be supplied by NMFS prior to entry into the fishery. Daily catch data shall be recorded in duplicate. On-deck estimates of catch shall be made for each haul, and logged before the next haul is on deck. Each haul estimate may be adjusted, if necessary, with processed catch information within 24 hours, provided that such adjustments accurately reflect the relative sizes of the individual hauls landed that day and the total catch for the day. The following information must be included in the log:

(i) Date.

(ii) Times of commencement and completion of each set.

(iii) Vessel's positions in degrees and minutes of latitude and longitude at the time of commencement and completion of each set.

(iv) Bottom depth, averaged over length of tow.

(v) Depth of gear during tow.

(vi) Catch to the nearest tenth of a metric ton (0.1 m.t.) of Pacific whiting *in each haul.*

(vii) Catch to the nearest hundredth of a metric ton (0.01 m.t.) of the following species *in each haul:*

(A) Jack mackerel.

(B) Pacific Ocean perch.

(C) Rockfishes (excluding Pacific Ocean perch).

(D) Sablefish.

(E) Flounders.

(F) Other species.

(viii) Catch, in numbers of fish, of the following prohibited species:

(A) Pacific halibut.

(B) Salmon.

(2) In addition to requirements of § 611.9, the owner or primary operator of each foreign fishing vessel shall be responsible for maintaining catch and effort statistics and shall submit reports as follows to the Regional Director, Northwest Region (address: National Marine Fisheries Service, 1700 Westlake Avenue North, Seattle, Washington 98109).

(i) *Daily report.* From the time the NMFS estimates that 90 percent of a nation's allocation of any species (directed or incidental) has been reached, and so notifies the designated representative of that nation, the information required under § 611.9(e) (Weekly Catch Report) shall be submitted on a daily basis and must reach the Regional Director no later than three days after the reported fishing day.

(ii) *Annual report.* Each nation whose fishing vessels operate in the fishery

shall report annual catch and effort statistics by May 30 of the following year in tabular form as follows:

(A) *Effort* in hours trawled, by vessel-class, by gear-type, by month, by ½° latitute by 1° longitude statistical areas.

(B) *Catch* by vessel-class, by gear-type, by month, by ½° latitude by 1° longitude statistical areas:

(*1*) To the nearest tenth of a metric ton (0.1 m.t.) for the following species or species groups: Pacific whiting, jack mackerel, Pacific Ocean perch, rockfishes (excluding Pacific Ocean perch), sablefish and flounders; and

(*2*) In numbers of fish for Pacific halibut and salmon.

(iii) *Daily logbook.* The logbook shall be available for inspection by the NMFS or U.S. Coast Guard personnel who at any time may remove the original copy. All original entries in the daily logbook (excluding those removed by the NMFS or U.S. Coast Guard personnel) shall be submitted to the Regional Director within three weeks after termination of a fishery. Duplicate copies shall be retained on the foreign vessel.

(iv) *Report of fish on board when entering fishery.* Before operating in this fishery, each foreign vessel with fish on board shall report to the Regional Director the species and amounts of fish on board which were harvested in any other fishery. Any fish on board not so reported will be presumed to have been harvested in this fishery. Such reports shall be submitted in accordance with the procedures specified in § 611.4(b).

§ 611.9 [Amended]

3. 50 CFR 611.9 (Appendix I, Pacific Ocean Fishes) is amended by changing the common English name for *Merluccius productus* (code 704) from Pacific hake to Pacific whiting.

[FR Doc. 80-15607 Filed 5-20-80; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 45, No. 100
Wednesday, May 21, 1980

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 211

[Docket No. ERA-R-80-02]

Amendments to Crude Oil Supplier/Purchaser Rule

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of address change.

SUMMARY: On April 28, 1980, ERA issued an Notice of Proposed Rulemaking regarding amendments to the Crude oil supplier/purchaser rule (45 FR 29770, May 5, 1980). The address for requests to speak at the San Francisco Hearing was incorrectly listed in that notice. The correct address for such requests is listed below.

ADDRESS: Send requests to speak at Hearing to: Terry Osborn (External Affairs), Department of Energy, 333 Market Street, San Francisco, California 94105, (415) 764–7027.

FOR FURTHER INFORMATION CONTACT:

Robert C. Gillette (Hearing Procedures), Economic Regulatory Administration, Room 2222–A, 2000 M Street, N.W., Washington, D.C. 20461, (202) 653–3757.

Terry Osborn (External Affairs), Department of Energy, 333 Market Street, San Francisco, California 94105, (415) 764–7027.

Issued in Washington, D.C., May 12, 1980.

F. Scott Bush,

Assistant Administrator, Regulations and Emergency Planning, Economic Regulatory Administration.

[FR Doc. 80–15551 Filed 5–20–80; 8:45 am]

BILLING CODE 6450–01–M

10 CFR Part 474

[Docket No. CAS–RM–80–202]

Electric and Hybrid Vehicle Research, Development, and Demonstration Program; Equivalent Petroleum-Based Fuel Economy Calculation; Notice of Proposed Rulemaking and Public Hearing

AGENCY: Department of Energy.

ACTION: Proposed rule.

SUMMARY: The Department of Energy (DOE) is proposing procedures to be used in calculating the equivalent petroleum-based fuel economy value of electric vehicles which DOE is required to develop pursuant to section 503(a)(3) of the Motor Vehicle Information and Cost Savings Act, as added by Section 18 of the Chrysler Corporation Loan Guarantee Act of 1979. The equivalent petroleum-based fuel economy value is intended to be used in calculating corporate average fuel economy pursuant to regulations prescribed by the Environmental Protection Agency.

DATES: Written comments must be received by 4:30 p.m. e.d.t. on or before July 21, 1980. The public hearing will be held on June 10, 1980, at 9:00 a.m. e.d.t. Requests to speak at the hearing must be received by 4:30 p.m. e.d.t. on May 27, 1980, and speakers will be notified by May 30, 1980.

ADDRESSES: Send written comments, requests to speak, and copies of speaker's statement to Carol Snipes, Office of Conservation and Solar Energy, Mail Stop 6B025, Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585. The public hearing will be held in Room 2105, 2000 M Street, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Robert S. Kirk, Electric and Hybrid Vehicles Division, Mail Stop 5H—044, Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252–8032.

Pamela Pelcovits, Office of the General Counsel, Mail Stop 1E—254, Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252–9516.

Carol Snipes, Office of Dockets and Hearings, Mail Stop 6B025, Department of Energy, 1000 Independence Avenue, S.W. Washington, D.C. 20585, (202) 252–9319.

SUPPLEMENTARY INFORMATION:

I. Background

In an effort to conserve energy through improvements in the energy efficiency of motor vehicles, Congress, in 1975, passed the Energy Policy and Conservation Act (EPCA), Public Law 94–163. Title III of EPCA amended the Motor Vehicle Information and Cost Savings Act (15 USC 1901 *et. seq.*) (the Motor Vehicle Act) by mandating fuel economy standards for automobiles produced in, or imported into, the United States. This legislation, as amended, requires that every manufacturer or importer meet a specified corporate average fuel economy (CAFE) standard for the fleet of vehicles which the manufacturer produces or imports in any model year. Administrative responsibilities for the CAFE program are assigned to the Department of Transportation and the Environmental Protection Agency (EPA) under the Motor Vehicle Act. The Secretary of Transportation is responsible for prescribing the CAFE standard through model year 1984 (the CAFE standard for model year 1985 and subsequent model years is prescribed in the Motor Vehicle Act) and enforcing the penalties for failure to meet these standards. The Administrator of EPA is responsible for calculating a manufacturer's CAFE value.

Because electric vehicles do not consume fuel (as defined in section 501(5) of the Motor Vehicle Act) for propulsive power, they are not included in the Motor Vehicle Act) for propulsive power, they are not included in the Motor Vehicle Act definition of the automobile and, accordingly, are not included in the calculation of a manufacturer's CAFE value.

On January 7, 1980, the President signed the Chrysler Corporation Loan Guarantee Act of 1979 (Pub. L. 96–185) (the Act). Section 18 of the Act amended section 13(c) of the Electric and Hybrid Vehicle Research, Development and Demonstration Act of 1976 (Pub. L. 94–413) (the EHV Act) and directed the Secretary of Energy, in consultation with

the Secretary of Transportation and the Administrator of EPA, to conduct a 7-year evaluation program of the inclusion of electric vehicles in the calculation of average fuel economy to determine the value and implications of such inclusion as an incentive for the early initiation of industrial engineering development and initial commercialization of electric vehicles in the United States. The evaluation program is to be conducted in parallel with DOE's existing electric vehicle research, development, and demonstration activities under the EHV Act.

Section 13(c) of the EHV Act directs the Administrator of EPA to implement the evaluation program by amending EPA regulations to include electric vehicles in calculating a manufacturer's CAFE value. Specific EPA regulations that relate to this statutory requirement are set forth at Title 40, Code of Federal Regulations, Part 86—Control of Air Pollution From New Motor Vehicles and New Motor Vehicle Engines, and Part 600—Fuel Economy of Motor Vehicles.

Section 18 of the Act also amends section 503(a) of the Motor Vehicle Act and directs the Secretary of Energy to determine equivalent petroleum-based fuel economy values for various classes of electric vehicles. The intent of this legislation is to provide an incentive for vehicle manufacturers to produce electric vehicles by including the expected high equivalent fuel economy of these vehicles in the CAFE calculation and thereby to accelerate the early commercialization of electric vehicles. Pursuant to the requirements of section 503(a)(3) of the Motor Vehicle Act, DOE is proposing regulations that provide a method of calculating equivalent petroleum-based fuel economy values (in units of miles per gallon) for electric vehicles. As provided by section 18 of the Act, DOE is required to promulgate final regulations no later than 6 months after the proposal.

This rule represents DOE's initial effort in the 7-year evaluation program on the value of the inclusion of electric vehicles in the CAFE calculation as an incentive to their commercial production. Pursuant to section 503(a)(3)(C) of the Motor Vehicle Act, DOE will review the final rule annually and will propose changes as necessary. As mandated in section 13(c)(4) of the EHV Act, a report of the progress of this evaluation program will be issued each year as part of the DOE Electric and Hybrid Vehicle Program Annual Report to Congress, pursuant to section 14 of the EHV Act. This report will discuss the success of the program in providing an incentive to the production and commercialization of electric vehicles. Included in this report will be quantitative information on electric vehicle production and an assessment of the effect of the program on use of petroleum and other forms of energy. A final report and recommendation on the permanent inclusion of electric vehicles in the CAFE calculations will be provided to Congress in 1987, as required by section 13(c)(4) of the EHV Act.

II. Development of the Proposed Rule

A. Requirements of the Motor Vehicle Act

Section 503(a)(3) of the Motor Vehicle Act requires DOE to determine the equivalent petroleum-based fuel economy values for various classes of electric vehicles taking into account the following parameters:

(i) the approximate electric energy efficiency of the vehicles considering the vehicle type, mission, and weight;

(ii) the national average electricity generation and transmission efficiencies;

(iii) the need of the Nation to conserve all forms of energy, and the relative scarcity and value to the Nation of all fuel used to generate electricity; and

(iv) the specific driving patterns of electric vehicles as compared with those of petroleum-fueled vehicles.

DOE is proposing as Part 474 of Chapter II of Title 10 of the Code of Federal Regulations procedures for calculating the equivalent petroleum-based fuel economy of electric vehicles. The use of these procedures will provide fuel economy values for the various kinds of electric vehicles which manufacturers may produce. As discussed in section III below, this calculation involves converting the actual electrical energy consumption of an electric vehicle (kilowatt-hours per mile) to miles per gallon and adjusting that figure to account for factors ii through iv, above.

B. Coordination With EPA Regulations

In coordinating the development of the evaluation program, as required by section 13(c)(1) of the EHV Act, DOE and EPA clarified the function of each agency. Accordingly, DOE is proposing regulations which provide a method to calculate the equivalent petroleum-based fuel economy value of an electric vehicle. The actual inclusion of electric vehicles in the calculation of a manufacturer's CAFE value will result from the amendments to EPA regulations, including the appropriate cross reference to DOE regulations. EPA will be promulgating amendments as an "Interim Final Rule" in the near future.

C. Public Access to Information

To assist the public in commenting on this proposed rulemaking, copies of the following sources of information used in developing Part 474 are available in Docket No. CAS–RM–80–202 for public inspection and copying in the DOE Reading Room, Room 5B–180, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. Copies of "Electric Vehicles and the Corporate Average Fuel Economy," (technical support paper) can be obtained by writing to Dr. Robert S. Kirk at the address listed in the "For Further Information" section, above.

"Electric Vehicles and the Corporate Average Fuel Economy," Aerospace Corporation (Aerospace Report No. ATR–80(7766)1).

"Electric Vehicle Test Procedure—SAE J227a," Society of Automotive Eningeers, February 1976.

"Inclusion of Electric and Hybrid Vehicles in Corporate Average Fuel Economy Standards—Environmental Assessment," C. Saricks, M. K. Singh, and M. J. Bernard, Argonne National Laboratory, April 15, 1980.

"Code of Federal Regulations—Title 40," Parts 86 and 600, Office of the Federal Register, July 1, 1979.

"Role of Electric Vehicles in U.S. Transportation," Hearing before a Subcommittee of the Committee on Appropriations, United States Senate, 96th Congress, First Session, 1979.

"Electric and Hybrid Vehicle Research, Development, and Demonstration Program; Performance Standards for Demonstrations," 10 CFR Part 475.

"EHV Program Environmental Assessment," First Review Draft, Argonne National Laboratory, December 18, 1979.

The technical support paper is the basic support document for the development of DOE's calculation procedure discussed in section III, below. The discussion of the proposed rule which follows contains a basis for understanding how the steps in this procedure were developed. Further detailed discussion and information are provided in the technical support paper.

III. Discussion of the Proposed Rule

The following paragraphs discuss the operation of each section of the proposed regulations.

A. Purpose and Scope

Section 474.1 states that Part 474 contains the procedures to be used for calculating the equivalent petroleum-

based fuel economy of electric vehicles. It is intended that values obtained from these procedures will be used in the calculation of the CAFE value of a vehicle manufacturer under EPA procedures at 40 CFR Part 600, Fuel Economy of Motor Vehicles.

B. Definitions

Section 474.2 contains the definitions necessary for the operation of Part 474. Several of the terms, such as "stop-and-go electrical efficiency value" and "energy equivalent fuel economy value," refer to separate steps in calculating the equivalent petroleum-based fuel economy value of an electric vehicle. The meaning of the term "petroleum equivalent factor" is discussed in more detail below.

DOE is proposing a definition of an electric vehicle in section 474.2. While hybrid vehicles (which can use either petroleum, electricity, or a combination of both for propulsive power) are included in the definition of "electric vehicle" for purposes of the evaluation program under section 18 of the Act, the statutory definition has been modified to exclude hybrid vehicles from the proposed definition of electric vehicle for Part 474. DOE has determined that this exclusion is necessitated at this time by the absence of a suitable test procedure to measure the energy consumption of hybrid vehicles. The wide range of heat engine/electric motor combinations in a hybrid vehicle, which can vary with the state of charge of the energy storage system, makes development of such test procedures very complex. DOE is currently involved in the development of such a test procedure and would proposed any procedure for public comment before including hybrid vehicles within the scope of Part 474. DOE has coordinated this determination and the proposed definition of "electric vehicle" with EPA.

DOE is proposing a definition of "model year" for purposes of choosing the appropriate petroleum equivalency factor in the calculation of equivalent petroleum-based fuel economy under § 474.4. This definition is compatible with EPA's definition of "model year," as set forth at 40 CFR 600.002(a)(6)–79.

DOE is interested in comments on the clarity and completeness of § 474.2 and is particularly interested in any comments on the proposed exclusion of hybrid vehicles.

C. Test Procedures

Based on the Society of Automotive Engineers (SAE) Electric Vehicle Test Procedure J227a (contained in Docket No. CAS–RM–80–202), DOE is proposing in § 474.3 the test procedure that shall be used in determining equivalent petroleum-based fuel economy. This test procedure is widely used throughout the electric vehicle community, and it is used for the vheicle performance aspects of the DOE Performance Standards for Demonstration (10 CFR Part 475) for electric vehicles purchased or leased for the DOE EHV Demonstration Project under the EHV Act.

The SAE Test Procedure J227a includes procedures for eight different tests. The test procedures provision in this proposed rule includes tests for (1) range at steady speed; (2) vehicle range when operated in a selected driving pattern; and (3) vehicle energy economy.

These test procedures, rather than the widely EPA test procedures (found in 40 CFR Part 86 and 600), are proposed to be used because of the fundamental differences between battery-powered and gasoline-powered vehicles. For electric vehicles, performance and fuel economy are dependent on the state of charge of the battery, and performance and efficiency measurements are made over the range of the battery state of charge. These measurements start with the battery completely charged and continue until it is either discharged to a point where the vehicle can no longer meet the test cycle requirements or is at the discharge limit set by the battery manufacturer. Measurements thus derived give results averaged over all battery states of charge. The SAE J227a test procedure, with its shorter, repetitive test cycle, results in finer measurable increments of energy consumption compared with the longer and more varied test cycle in the EPA procedure. While the EPA cycle is more representative of actual driving conditions for a gasoline-powered vehicle, the finer measurable increments in the SAE test procedure make it more applicable for electric vehicles.

Under the EPA regulations, the fuel economies of gasoline- and diesel-powered vehicles are measured on two driving schedules, or cycles, simulating the average use of such vehicles. The EPA highway driving cycle simulates intercity use; the EPA urban cycle simulates patterns in the urban setting. Because DOE believes the limited range of near-term electric vehicles makes them inappropriate for intercity use, the proposed rule does not include intercity use in its test procedures. Section 474.3 requires the use of the SAE test procedure driving patterns in a manner which closely duplicates the EPA urban driving cycle. The EPA urban driving cycle is primarily a series of accelerations from rest to 20 to 40 miles per hour, followed by short cruises at speed, and ended by a coasting/braking deceleration. The SAE Schedule C driving pattern, cited in § 474.3, is an acceleration from rest to 30 miles per hour in 18 seconds, followed by a 20-second cruise, and ended with a 17-second coasting/braking decleration. This very closely duplicates the stop-and-go portion of the EPA urban driving cycle.

The EPA urban driving cycle also includes a brief stretch of freeway driving which is characterized by a 54-mph cruise. Section 474.3(c) provides for a 54-mph steady speed measurement to duplicate this portion of the EPA cycle.

The freeway driving segment of the EPA urban driving cycle is 9.26 percent of the total urban cycle. Accordingly, in the calculation of the equivalent petroleum-based fuel economy value under § 474.4(b) of the proposed rule, the Schedule C stop-and-go test is weighted 90.74 percent, and the 54-mph steady speed test is weighted 9.26 percent.

D. Calculation Procedures

Section 474.4 describes the steps necessary to calculate the equivalent petroleum-based fuel economy of an electric vehicle. The rule itself specifies a series of arithmetic steps. Each of these steps represents DOE's determination on the appropriate consideration of the parametes which Congress directed DOE to take account of in determining equivalent petroleum-based fuel economy.

The mathematical form of the equation described in the proposed rule is as follows:

$$FE = FE_{ee} \times PEF$$

where FE is the equivalent petroleum-based fuel economy, FE_{ee} is the energy equivalent fuel economy value (miles per gallon), and PEF is the petroleum equivalency factor. PEF is a single factor incorporating the parameters ii–iv specified by Congress in the Act, as set forth in section II.A, above.

Section 474.4(d) provides that the equivalent petroleum-based fuel economy value is calculated by multiplying the energy equivalent fuel economy value by the petroleum equivalency factor. Each of these terms is discussed in further detail below.

(1) Energy Equivalent Fuel Economy (FE_{ee})

Section 503(a)(3)(A)(i) of the Motor Vehicle Act requires DOE to take account of "the approximate electrical energy efficiency of the vehicles considering the vehicle type, mission and weight." This requirement is met in section 474.4(a) by calculating the energy equivalent fuel economy value, according to the following formula:

$$FE_{ee} = \frac{C}{\eta_{ev}}$$

where: C = energy content of gasoline

$$= \frac{125,071 \text{ Btu/gallon}}{3412 \text{ Btu/kWh}}$$

= 36.6562 kWh/gallon

η_{ev} = measured electrical efficiency of the vehicle (kWh/mile)

These two terms are discussed below.

(a) *Measured Electrical Efficiency of the Vehicle.* Section 474.4(a) and (b) call for the calculation of the electrical efficiency value of the vehicle by use of the procedure described in Section II above. Vehicle type and weight are accounted for in the energy consumption measurement provided in this test procedure. Vehicle mission is accounted for in the stop-and-go and steady speed driving patterns and their relative weighting.

(b) *Energy Content of Gasoline.* The SAE test procedure discussed above measures the electrical efficiency of the vehicle in units of kilowatt-hours per mile. This factor, as applied in section 474.4(c), converts the electrical efficiency into an energy equivalent fuel economy value in units of miles per gallon. The conversion factors used (125,071 Btu/gallon and 3412 Btu/kWh) are the standard thermal conversion factors. DOE is interested in comments on the use of these conversion factors.

(2) Petroleum Equivalency Factor

While the determination of the energy efficiency of an electric vehicle is a straightforward task based on physical testing, the measurement of the remaining parameters listed in section 503(a)(3)(A) of the Motor Vehicle Act is less subject to precise quantification. A general discussion of DOE's consideration of these parameters follows, and a more detailed discussion is provided in the technical support paper.

To simplify the calculation of the equivalent petroleum-based fuel economy, all the terms described below have been combined in section 474.4(d) into a single term called the petroleum equivalency factor. This factor will be determined for each model year covered by the program.

At this time, DOE is not proposing values for the petroleum equivalency factor (section d below). For purposes of public comment on this proposed rulemaking, sample figures for the petroleum equivalency factor are set forth in Table I.

Pursuant to section 503(a)(3)(C) of the Motor Vehicle Act, the Secretary of Energy will review values prescribed in Part 474 on an annual basis and will propose revisions, if necessary. On this basis, the petroleum equivalency factor may be revised, if it is determined that the values comprising this factor change siginificantly.

The petroleum equivalency factor is determined as follows:

$$PEF = DPF \times \eta_t \times AF \times \frac{E_{total}}{\sum_i I_i V_i}$$

where: DPF = driving pattern factor

η_t = average national electrical transmission efficiency

AF = accessory factor

E_{total} = total amount of electricity generated from all fuel sources for the model year (quads)

I_i = input energy of fuel used to generate electricity from fuel source i (quads)

V_i = relative value factor of fuel i

Table I.—*Sample Petroleum Equivalency Factor Calculation*

Year	Driving pattern factor (DPF)	Electrical transmission efficiency (η_T)	Accessory factor (AF)	Total electric energy generated (quads) [1] (E_{total})	Sum of weighted primary energy source (quads) [1] ($\Sigma_i I_i V_i$)	Sample petroleum equivalency factor [1]
1981	0.8479	0.9141	0.9000	7.6732	3.1016	1.7257
1982	.8486	.9141	.9000	8.0371	3.2648	1.7186
1983	.8492	.9141	.9000	8.4011	3.4316	1.7104
1984	.8499	.9141	.9000	8.7650	3.5861	1.7090
1985	.8505	.9141	.9000	9.1289	3.7479	1.7043
1986	.8511	.9141	.9000	9.4928	3.8819	1.7122
1987	.8517	.9141	.9000	9.8567	4.0170	1.7193

[1] Sample figures.

Each of these factors is described in further detail below.

(a) *Driving Pattern Factor.* Section 503(c)(A)(iv) of the Motor Vehicle Act requires that DOE take into account "the specific driving patterns of electric vehicles as compared with those of petroleum-fueled vehicles." As discussed above, DOE believes that near-term electric vehicles cannot completely replace petroleum-fueled vehicles and, accordingly DOE developed the driving pattern factor to reflect this limitation. Conceptually, the driving pattern factor is the ratio of

annual vehicle miles travelled for an electric vehicle to that of a petroleum-fueled vehicle. The petroleum-fueled vehicle has a greater number of vehicle miles travelled annually than the electric vehicle due to the limited range restriction of electric vehicles. This limitation produces a negative effect on equivalent petroleum-based fuel economy. Table II gives the driving pattern factor over the 7-year period of the evaluation program (reference Docket No. CAS–RM–80–202).

(b) *Electric Transmission Efficiency.* Section 503(c)(3)(A)(ii) of the Motor Vehicle Act requires that DOE take account of "the national average electrical generation and transmission efficiencies." Since energy is lost in transmitting electricity, this factor has a negative effect on equivalent petroleum based fuel economy. The national average electrical transmission efficiency currently is 0.9141 (source: "Electric Vehicles and the Corporate Average Fuel Economy," contained in the Docket) and is not projected to change significantly during the 7-year period of the Act. Therefore, an electrical transmission efficiency factor of 0.9141 is included in the equation.

Table II.—*Driving Pattern Factors*

Year	Miles per year		Driving pattern factors
	VMT (EV's)	VMT (ICE's)	
1981	8,320	9,812	0.8479
1982	8,430	9,934	.8486
1983	8,540	10,056	.8492
1984	8,650	10,178	.8499
1985	8,760	10,300	.8505
1986	8,870	10,422	.8511
1987	8,980	10,544	.8517

Source: "EHV Program Environmental Assessment," first review draft, Argonne National Laboratory, Dec. 18, 1979.

(c) *Accessory Factor.* While section 503(a)(3) of the Motor Vehicle Act does not specifically identify petroleum-powered accessories as a parameter in calculating equivalent petroleum-based fuel economy, petroleum-powered accessories on an electric vehicle can consume significant amounts of petroleum fuel. Sections 503(a)(3)(A) (iii) and (iv) direct DOE to include "the need * * * to conserve all forms of energy" and "specific driving patterns of electric vehicles as compared with those of petroleum-fueled vehicles" in equivalent petroleum-based fuel economy. Accordingly, DOE is proposing to include the fuel consumption of petroleum-powered accessories in equivalent petroleum-based fuel economy calculations.

DOE is aware that electric vehicles can be equipped with electrically powered accessories. However, DOE is not proposing to include these accessories in equivalent petroleum-based fuel economy, due to the minor effect of electrically-powered accessories when converted to equivalent petroleum consumption. DOE is interested in comments on these determinations.

DOE recognizes the most accurate method for including petroleum-powered accessories in the equivalent petroleum-based fuel economy calculation would be through the actual testing of the petroleum consumption of accessories. However, there are currently no such test procedures, and DOE is proposing to include a constant in the petroleum equivalency factor to represent the estimated use of petroleum-powered accessories. DOE, in coordination with EPA, will be developing test procedures to measure the petroleum consumption of accessories and will propose any relevant test procedures for public comment before amending Section 474.

DOE is proposing at this time to include a constant for only heater/defrosters. This is based on the fact that defrosters are the one petroleum-powered accessory with which all electric vehicles must be equipped, pursuant to Federal Motor Vehicle Safety Standards. Because electrically powered defrosters have a significant effect on the range of electric vehicles, most electric vehicles are equipped with petroleum-powered defrosters. Defrosters are generally combined with heaters in one system.

The fuel consumption of a petroleum-powered heater/defroster for a typically-sized electric vehicle is about 0.01 gallon/mile. Assuming a usage factor of 10 percent and typical equivalent petroleum-based fuel economy values for electric vehicles of 100 to 200 mpg, the accessory fuel consumption reduces the fuel economy values by 9 to 17 percent. DOE is proposing an accessory factor of 0.900. This value of 0.900 represents DOE's best estimate of the combination of vehicle fuel economy and accessory fuel consumption for near-term electric vehicles. DOE is interested in comments on the Accessory Factor.

(d) *Electricity Generation Efficiency and Relative Value Factor.* The last term in the proposed formula for the petroleum equivalency factor takes account of the remaining parameters listed in the Motor Vehicle Act: the national average electricity generation efficiency and the relative scarcity and value to the Nation of all fuel used to generate electricity. The term is the ratio of total electricity generation to input energy, weighted by a relative value factor. The derivation of values for this term, and, therefore, for the petroleum equivalency factor depends on the availability of data for (1) total electricity generation, (2) energy sources used in electricity generation, and (3) prices for such sources, as well as for automotive gasoline. DOE is not including values in section 474.4(d) for the petroleum equivalency factor in the proposal issued today until publication of the 1979 Annual Report to Congress of DOE's Energy Information Administration (EIA), scheduled for June 1980. At that time, DOE will propose for comment values for model years 1981 through 1987, along with relevant source data and support documentation. Accordingly, the final rule, which is required to be promulgated in November 1980, will be based upon both today's and the subsequent proposal.

Section 503(a)(3)(A)(ii) of the Motor Vehicle Act requires DOE to take into account average electricity generation efficiency. Electricity generation efficiency is defined as the total output of the electricity generated in the United States divided by the sum of the energy inputs for each energy source used to generate electricity. DOE intends to include fuels (i.e., coal, petroleum, natural gas, nuclear and hydroelectric power) that constitute 1 percent or greater of total electricity production in this calculation. Table III gives sample fuel inputs and total electricity generation for purposes of allowing public comment on the operation of the petroleum equivalency factor. These sample figures do not have any relationship to the actual values that DOE will propose, as discussed above.

Section 503(a)(3)(A)(iii) of the Motor Vehicle Act also requires in part that "the relative scarcity and value to the Nation of all fuel used to generate electricity" be taken into account. The petroleum equivalency factor accomplishes this by multiplying each of the individual fuel energy input terms used in calculating electricity generation efficiency by a relative value factor. The relative value factor proposed today consists of the ratio of the average price

of the individual fuel used to generate electricity to the average price of gasoline until DOE promulgates its projections of marginal prices for future years.

DOE believes that marginal prices rather than average prices should be used in computing the relative value factor, because marginal prices would better reflect the true value of energy savings to the Nation as called for in the Act. DOE is currently developing marginal price projections and estimates of the premium value of energy savings above such marginal prices. DOE then plans to provide the public an adequate opportunity to participate because of the significant effect such price forecasts will have on a number of DOE programs, including the evaluation program.

Table III.—*Sample Projections for Electric Energy Generation (Quads)*

Year	Primary energy source consumed					Total electricity generated
	Fuel oil	Natural gas	Coal	Nuclear	Hydroelectric	
1981	1.300	2.747	13.313	3.539	3.256	7.6732
1982	1.277	2.795	13.899	4.050	3.299	8.0371
1983	1.254	2.844	14.486	4.561	3.343	8.4011
1984	1.231	2.892	15.072	5.072	3.386	8.7650
1985	1.208	2.941	15.659	5.583	3.429	9.1289
1986	1.185	2.990	16.246	6.094	3.472	9.4528
1987	1.162	3.038	16.832	6.605	3.515	9.8567

Table IV provides sample values for average prices and the relative value factor for purposes of allowing public comment on the operation of the petroleum equivalency factor. These sample values do not have any relationship to the actual values which DOE will propose, as discussed above.

E. Comments Requested

The Department of Energy solicits comments on all aspects of the proposed regulations, but specifically requests comments on the following items:

1. Electric vehicle test procedures.
2. Relative weighting of stop-and-go and steady-speed fuel economy values.
3. Relative value factor.
4. Driving pattern factors.
5. Projected use of electric automobile versus conventionally powered automobiles from both an annual mileage basis and a type-of-usage basis.
6. Electrical transmission efficiency.
7. Petroleum-powered accessory test procedures.
8. Annual usage of petroleum-powered accessories.
9. Hybrid vehicle test procedures.

Table IV.—*Sample Projections for Relative Value Factors*

Year and fuel	Average price (dollars per Btu)	Relative value factors
1981:		
Automotive gasoline	10.27	
Fuel oil	4.67	0.4547
Natural gas	2.05	.1996
Coal	1.37	.1334
Nuclear energy	.54	.0526
Hydroelectric	.00	.0000
1982:		
Automotive gasoline	10.75	
Fuel oil	5.03	.4679
Natural gas	2.25	.2093
Coal	1.45	.1349
Nuclear energy	.55	.0512
Hydroelectric	.00	.0000
1983:		
Automotive gasoline	11.24	
Fuel oil	5.40	.4804
Natural gas	2.44	.2171
Coal	1.54	.1370
Nuclear energy	.56	.0498
Hydroelectric	.00	.0000
1984:		
Automotive gasoline	11.72	
Fuel oil	5.76	.4915
Natural gas	2.64	.2253
Coal	1.62	.1382
Nuclear energy	.57	.0486
Hydroelectric	.00	.0000
1985:		
Automotive gasoline	12.21	
Fuel oil	6.13	.5020
Natural gas	2.84	.2326
Coal	1.71	.1400
Nuclear energy	.58	.0475
Hydroelectric	.00	.0000
1986:		
Automotive gasoline	12.40	
Fuel oil	6.30	.5081
Natural gas	2.98	.2403
Coal	1.73	.1395
Nuclear energy	.60	.0484
Hydroelectric	.00	.0000
1987:		
Automotive gasoline	12.59	
Fuel oil	6.47	.5139
Natural gas	3.13	.2486
Coal	1.75	.1390
Nuclear energy	.62	.0492
Hydroelectric	.00	.0000

IV. Opportunities for Public Comment

A. Written Comments

Interested persons are invited to participate in this rulemaking by submitting data, views, or arguments with respect to the proposed regulations. Comments should be submitted to the address indicated in the address section of this preamble and should be identified on the outside of the envelope and on documents submitted to DOE with the designation "Inclusion of Electric Vehicles in CAFE Calculation—Proposed Regulations." (Docket No. CAS-RM-80-202) Fifteen copies should be submitted. All comments received will be available for public inspection in the DOE Reading Room, Room 5B–180, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. All comments received before 4:30 p.m., e.d.t., [60 days from date of publication] and all other relevant information will be considered by DOE before final action is taken on the proposed regulations.

Pursuant to the provisions of 10 CFR 1004.11 (44 FR 1908, January 8, 1979), any person submitting information that he or she believes to be confidential and that may be exempt by law from public disclosure should submit one complete copy and fifteen copies from which information claimed to be confidential has been deleted. In accordance with the procedures established by 10 CFR 1004.11, DOE shall make its own determination with regard to any claim that information submitted be exempt from public disclosure.

B. Public Hearing

1. *Request Procedures.* The time and place of the public hearing are indicated in the dates and address sections of this preamble. DOE invites any person who has an interest in the proposed rulemaking or who is a representative of a group or class of persons that has an interest in the proposed rulemaking to make a written request for an opportunity to make an oral presentation. Such a request should be directed to DOE at the address indicated in the address section of this preamble and must be received before 4:30 p.m. on May 27, 1980. A request may be hand delivered between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. Requests should be labeled, both on the document and on the envelope, "Inclusion of Electric Vehicles in CAFE Calculation—Public Hearing (Docket No. CAS–RM 80–202)."

The person making the request should describe the interest concerned; if appropriate, state why he or she is a proper representative of a group or class of persons that has such an interest; and give a concise summary of the proposed oral presentation and a telephone number where the requester may be contacted through the day before the hearing. Each person selected to be heard will be notified by DOE before 4:30 p.m., May 30, 1980. Fifteen copies of a speaker's statement should be brought to the hearing. In the event that any person wishing to testify cannot provide fifteen copies, alternative arrangements can be made in advance of the hearing by so indicating in the letter requesting an oral presentation or by calling Carol Snipes at (202) 252–9319.

2. *Conduct of the Hearing.* DOE reserves the right to select the persons to be heard at the hearing, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based

on the number of persons requesting to be heard.

A DOE official will be designated to preside at the hearing. This will not be a judicial-type hearing. Questions may be asked only by those conducting the hearing, and there will be no cross-examination of the persons presenting statements. Any decision made by DOE with respect to the subject matter of the hearing will be based on all information available to DOE. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity, if he or she so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any person who wishes to have a question asked at the hearing may submit the question, in writing, to the presiding officer. The presiding officer will determine whether the question is relevant and whether the time limitations permit it to be presented for answer.

Any person wishing to make an oral presentation at the hearing, but who does not file a timely request as specified above, may notify Carol Snipes before the hearing or the presiding officer during the hearing of his or her desire to make a presentation. Such person will be admitted as a "limited" participant and will be heard at such time and for such duration as the presiding officer may permit.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made, and the entire record of the hearing, including the transcript, will be retained by DOE and made available for inspection at the DOE Freedom of Information Office, Room 5B–180, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. Any person may purchase a copy of the transcript from the reporter.

V. Other Matters

A. Environmental Review

Upon review of the Environmental Assessment ("Environmental Assessment—Inclusion of Electric and Hybrid Vehicles in CAFE Calculations," included in Docket No. CAS–RM–80–202), it was determined that the program does not constitute a major Federal action significantly affecting the quality of the human environment and that, therefore, no Environmental Impact Statement need be prepared pursuant to the National Environmental Policy Act (42 U.S.C. 4321 et seq.).

B. Regulatory Review

It has been determined that the proposed regulation is significant, as that term is used in Executive Order 12044 and amplified in DOE Order 2030. The determination is based on the importance of the overall electric and hybrid vehicle program in encouraging the development of alternative means of transportation. It has been further determined that this regulatory action is not likely to have a major impact, as defined by Executive Order 12044 and DOE Order 2030; consequently, no regulatory analysis will be prepared in this instance.

C. Urban Impact Analysis

This proposed regulation has been reviewed in accordance with OMB Circular A–116 to assess the impact on urban centers and communities. In accordance with the DOE finding that the regulation is not likely to have a major impact, DOE has determined that no community and urban impact analysis of the rulemaking is necessary, pursuant to Section 3(a) of Circular A–116.

D. Coordination With the Secretary of Transportation and the Administrator of the Environmental Protection Agency

In developing this proposed rulemaking, DOE has consulted with the Secretary of Transportation and the Administrator of EPA, pursuant to section 13(c)(1) of the EHV Act.

(Motor Vehicle Information and Cost Savings Act, Pub. L. 94–163, as amended by the Chrysler Corporation Loan Guarantee Act of 1979, Pub. L. 96–185; Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976, Pub. L. 94–413, as amended by the Chrysler Corporation Loan Guarantee Act of 1979, Pub. L. 96–185; Department of Energy Organization Act, Pub. L. 95–91.)

In consideration of the foregoing, DOE hereby proposes to issue Part 474 of Chapter II of Title 10 of the Code of Federal Regulations as set forth below.

Issued in Washington, D.C., May 12, 1980.

John C. Sawhill,

Deputy Secretary.

Chapter II of Title 10, Code of Federal Regulations is amended by establishing Part 474 as follows:

PART 474—ELECTRIC AND HYBRID VEHICLE RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROGRAM; EQUIVALENT PETROLEUM-BASED FUEL ECONOMY CALCULATION

Sec.

Authority: Section 503(a)(3) of the Motor Vehicle Information and Cost Savings Act, Pub. L. 94–163 (15 U.S.C. 2003(a)(3)), as added by section 18 of the Chrysler Corporation Loan Guarantee Act of 1979, Pub. L. 96–185; Department of Energy Organization Act, Pub. L. 95–91.

§ 474.1 Purpose and scope.

This part contains procedures for calculating the equivalent petroleum-based fuel economy value of electric vehicles, as required to be prescribed by the Secretary of Energy under section 503(a)(3) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2003(a)(3)), as added by section 18 of the Chrysler Corporation Loan Guarantee Act of 1979. The equivalent petroleum-based fuel economy value is intended to be used in calculating corporate average fuel economy pursuant to regulations promulgated by the Environmental Protection Agency at 40 CFR Part 600—Fuel Economy of Motor Vehicles.

§ 474.2 Definitions

For purposes of this part, the term—

"Electric vehicle" means a vehicle that is powered by an electric motor drawing current from rechargeable storage batteries or other portable energy storage devices. Recharge energy shall be drawn primarily from a source off the vehicle, such as residential electric service.

"Electrical efficiency value" means the weighted average of the stop-and-go and steady-speed electrical efficiency values, as determined in accordance with § 474.4(b).

"Energy equivalent fuel economy value" means the electrical efficiency value converted into units of miles per gallon, as determined in accordance with § 474.4(c).

"Equivalent petroleum-based fuel economy value" means a number, determined in accordance with § 474.4, which represents the average number of miles traveled by an electric vehicle per gallon of gasoline.

"Model year" means an electric vehicle manufacturer's annual production period (as determined by the Administrator of the Environmental Protection Agency) which includes January 1 of such calendar year. If a

manufacturer has no production period, the term "model year" means the calendar year.

"Petroleum equivalency factor" means a number which represents the parameters listed in section 503(a)(3)(ii)–(iv) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2003(a)(3)) for purposes of calculating equivalent petroleum-based fuel economy in accordance with § 474.4(d).

"Steady-speed electrical efficiency value" means the average number of kilowatt-hours of electrical energy required for an electric vehicle to travel 1 mile, as determined in accordance with § 474.43(c).

"Stop-and-go electrical efficiency value" means the average number of kilowatt-hours of electrical energy required for an electric vehicle to travel 1 mile, as determined in accordance with § 474.3(b).

§ 474.3 Test procedures.

(a) The conditions and equipment in the Electric Vehicle Test Procedure—SAE J2271 of the Society of Automotive Engineers shall be used for carrying out the test procedures set forth in this section unless otherwise specifically provided in this part.

(b) The test procedures prescribed in SAE procedure J227a, Vehicle Energy Economy, using Vehicle Test Cycle C for the driving cycle, shall be used for generation of the stop-and-go electrical efficiency value.

(c) The test procedures prescribed in SAE procedure J227a, Vehicle Energy Economy, using a driving cycle consisting of a steady speed of 54 mph, as prescribed in the SAE procedure for Range at Steady Speed, shall be used for generation of the steady-speed electrical value.

§ 474.4 Equivalent petroleum-based fuel economy calculation.

Calculate the equivalent petroleum-based fuel economy of an electric vehicle as follows:

(a) (1) Determine the stop-and-go electrical efficiency value, according to § 474.3(b).

(2) Determine the steady-speed electrical efficiency value, according to § 474.3(c).

(b) Calculate the electrical efficiency value by:

(1) Multiplying the stop-and-go electrical efficiency value by 0.9074;

(2) Multiplying the steady-speed electrical efficiency value by 0.0926; and

(3) Adding the resulting two figures, rounding to the nearest 0.0001 kWh/mile.

(c) Calculate the energy equivalent fuel economy value by dividing the electrical efficiency value into 36.6562.

(d) Calculate the equivalent petroleum-based fuel economy value in miles per gallon by multiplying the energy equivalent fuel economy value by the petroleum equivalency factor for the model year in which the electric vehicle is manufactured. DOE will propose the numbers for (d)(i)–(7) in the near future.

(1) For model year 1981, the petroleum equivalency factor is [ ];

(2) For model year 1982, the petroleum equivalency factor is [ ];

(3) For model year 1983, the petroleum equivalency factor is [ ];

(4) For model year 1984, the petroleum equivalency factor is [ ];

(5) For model year 1985, the petroleum equivalency factor is [ ];

(6) For model year 1986, the petroleum equivalency factor is [ ];

(7) For model year 1987, the petroleum equivalency factor is [ ].

Appendix—Sample Calculation

Step 1

Assume that a 1983 model year electric vehicle was tested according to the procedures in section 474.3 and the following results were obtained:

stop-and-go electrical efficiency value = 0.344 kWh/mile

steady-speed electrical efficiency value = 0.260 kWh/mile

Step 2

The electrical efficiency value is then calculated, according to section 474.4(b), by averaging the above two values, weighted 0.9074 and 0.0926, respectively:

electrical efficiency value
$= (0.9074 \times 0.344) + (0.0926 \times 0.260)$
$= 0.3362$ kWh/mile

Step 3

The energy equivalent fuel economy value (FE_{ee}) is then calculated, according to section 474.4(c), by dividing the electrical efficiency value into 36.6562 which is the number of kilowatt-hours equivalent to the energy content of 1 gallon of gasoline: energy equivalent fuel economy $= 36.6562 \div 0.3362 = FE_{ee} = 109.0309$ mpg

Step 4

The equivalent petroleum-based fuel economy is then calculated, according to section 474.4(d), by multiplying the energy equivalent fuel economy by the petroleum equivalency factor. Assume that the petroleum equivalency factor for model year 1983 is 1.7; therefore:

$FE = FE_{ee} \times$ Petroleum Equivalency Factor
$= 109.0309 \times 1.7$
$= 185.4$ mpg

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BILLING CODE 6450-01-M

Office of Conservation and Solar Energy

10 CFR Part 477

[CAS-RM-79-507]

Standby Federal Emergency Energy Conservation Plan

AGENCY: Department of Energy.

ACTION: Withdrawal of certain proposed rulemaking provisions.

SUMMARY: On January 31, 1980, the Department of Energy (DOE) established the Standby Federal Emergency Energy Conservation Plan in accordance with Title II of the Emergency Energy Conservation Act of 1979. The Federal Register notice regarding establishment of that Plan (45 F.R. 8462, February 7, 1980) also included notice of several emergency gasoline conservation measures proposed for inclusion in the Plan. One of those measures concerned emergency restrictions on recreational watercraft use on weekends. DOE has withdrawn this proposal to evaluate emergency energy restrictions on all recreational and nonhighway vehicles and craft which utilize oil based fuels.

DATES: Proposed § 477.48 of 10 CFR (45 FR 8503) is withdrawn effective as of April 23, 1980.

FOR FURTHER INFORMATION CONTACT:

Henry G. Bartholomew or Lorn Harvey, Conservation and Solar Energy, Department of Energy, 1000 Independence Avenue, S.W., Room GE-004A, Washington, D.C. 20585, (202) 252-4966.

Lewis W. Shollenberger, Jr. or Christopher T. Smith, Office of General Counsel, Department of Energy, Room 1E258, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252-9510.

SUPPLEMENTARY INFORMATION: Title II of the Emergency Energy Conservation Act of 1979 (the Act) provides the framework for a coordinated national response to an emergency energy shortage. If the President finds that a severe energy supply interruption exists or is imminent or that actions to restrain domestic energy demand are necessary under the international energy program, he may establish monthly emergency energy conservation targets for each affected energy source (e.g., gasoline or home heating oil) for the Nation and for each State. Within 45 days after these targets are established, States must submit to the Secretary of Energy emergency energy conservation plans containing measures they will implement to reduce consumption of